

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

JEROLINE RUCKER PITTMAN,	*	
Plaintiff,	*	
vs.	*	
MICHAEL J. ASTRUE, Commissioner of Social Security,	*	CASE NO. 3:12-CV-51 (CDL)
Defendant	*	

ORDER ON REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

After a *de novo* review of the record in this case, the Report and Recommendation filed by the United States Magistrate Judge on November 28, 2012 is hereby approved, adopted, and made the Order of the Court with the following additional observations.

The objection of the Defendant is well stated. However, for the reasons stated by this Court in *Macheski v. Leavitt*, 2007 WL 2710466 (M.D. Ga. 2007), this Court interprets the Eleventh Circuit's decision in *Bloodsworth v. Heckler*, 703 F.2d 1233 (11th Cir. 1983) to be a rejection of Defendant's arguments. While this Court could strain to distinguish this case from *Bloodsworth* to do so would be to place linguistic form over substance. That is a job for the Court of Appeals if it is to be done by anyone. Accordingly, the Court finds that it has subject matter jurisdiction and thus denies Defendant's motion to dismiss. The Court acknowledges that reasonable minds could certainly differ on this issue, and it appears

that other circuits have reached a different conclusion than the Eleventh Circuit. Moreover, a ruling by the Court of Appeals would be dispositive of this case if it concluded that subject matter jurisdiction did not exist. Therefore, to the extent that today's ruling is not immediately appealable as a matter of right, the Court certifies it for immediate review.

IT IS SO ORDERED, this 3rd day of January, 2013.

s/Clay D. Land
CLAY D. LAND
UNITED STATES DISTRICT JUDGE